SUPREME COURT OF THE UNITED STATES.

No. 305.

THE UNITED STATES, APPELLANTS,

vs.

THE SCHOONER SEA WITCH AND CARGO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 United States district court eastern district of Louisiana, in prize.

THE UNITED STATES OF AMERICA
against
THE SCHOONER SEA WITCH, her tackle, &c., and cargo. } 7,975.

To the honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the schooner or vessel called the Sea Witch, with the goods, wares, and merchandise laden therein, was captured as lawful prize on or about the 31st day of December, 1864, and brought to this port by the United States steamer Metacomet, James E. Jewett, United States navy, commanding.

Second. That the schooner or vessel called the Sea Witch, with the goods, wares, and merchandise laden therein, were at the time of such capture and are now rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said schooner or vessel called the Sea Witch, with the goods, wares, and merchandise laden therein, have been brought to the port of New Orleans, and are now at said port, and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises, the said schooner or vessel called the Sea Witch, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants; that all and singular the premises are and were true and within the jurisdiction of this honorable court; in attestation whereof, the said attorney exhibits the said vessel's papers and the documents, &c., found on board, together with the testimony of the witnesses, duly taken in preparatorio by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said schooner or vessel called the Sea Witch, and her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, in this behalf to be made, and that all persons interested in the said vessel and her cargo may be cited to answer in the premises, and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said schooner, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden

therein, may be condemned as lawful prize to the use of the said United States.

Dated New Orleans, January 23d, 186 .

(Sig.) RUFUS WAPLES,
United States District Attorney.

2 *Order.*

Let admiralty process issue as prayed for.

N. O., January 23d, 1865.

(Sig.) W. S. BENEDICT, *D'y Clerk.*

Filed January 23d, 1865.

3 The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the schooner Sea Witch, tackle, &c., and cargo, now libelled by the United States of America, for the causes set forth in the libel now pending in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said schooner Sea Witch, tackle and cargo, should not be condemned as prize forfeited to the United States, sold, and the proceeds deposited according to law, and agreeably to the prayer of the libellant, and how you have executed this warrant, that you make return according to law.

Witness the honorable Edward H. Durell, judge of the said court, at New Orleans, this 23d day of January, 1865, and the 89th year of the independence of the United States.

[SEAL.] W. S. BENEDICT, *D'y Clerk.*

4 *Marshal's return.*

Received January 23d, 1865, and in obedience to the within warrant, seized and took into my possession the within described property. Posted copies of this warrant, the libel, and order of the judge on the door of the court-house, and published monition in the True Delta, one of the daily newspapers printed and published in New Orleans, on the 24, 31 Jan'y, and 4, 11 Febr'y, 1865.

A. BOISBLANC,
D'y U. S. Marshal.

Returned 14th Febr'y, 1865.

Filed 14th Febr'y, 1865.

5 In the matter of the sch'r Sea Witch and cargo, a prize.

U. S. PRIZE COMMISSIONERS' OFFICE,
New Orleans, Jan'y 23d, 1865.

To the Hon. E. H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The undersigned, prize commissioners of this honorable court, respectfully report that on the 21st day of January, A. D. 1865, they received notice from James Brown, acting ensign of the U. S. st'r Metacomet, of which James E. Jewett is commander, that the said James Brown brought with him into this city a certain vessel called the Sea Witch and cargo as a prize of the U. S. st'r Metacomet; that said schooner had been captured on Saturday, the 31st day of December, 1864, on or about 7 o'clock p. m., in latitude 27 16 N., and longitude 93 59 W., and the said Brown and a prize crew had been appointed by said Commander James E. Jewett to bring said prize into this port, and report her as required by the law and the usages in such cases observed; that the said prize master did seasonably deliver to us all such papers, passes, documents, &c., as were found on board the captured schooner, and having a reference to and a connection with the captured property, and which were in the
6 possession, custody, or power of the captors, which documents were by one of us prize commissioners regularly marked and numbered from A to N inclusive, being fourteen in number; and the said prize master made a deposition identifying said documents and complying in all respects with the law; which deposition and the said documents are herewith transmitted to your honorable court; that the said prize master produced to me four witnesses, persons captured with said prize and sent in as witnesses, to wit, 1st, Pièrre Jaureguiberri, captain of said vessel; 2d, John Johnson, 2d mate of said vessel; 3d, Antonio Amabeo, 1st mate of said vessel; 4th. José Arazuria,
7 sailor; that we duly examined four persons in preparatorio upon the standing interrogatories which have been adopted by this honorable court, as the same are found in Upton's work on Prize Courts, (page 479, 3d edition;) that said witnesses were examined separately on oath, and not in presence of each other, after each had taken the necessary and prescribed oath to make true answers, &c., which answers were written down as required by law, each one separately to each interrogatory, and when entirely answered the said answers were signed by each witness respectively, as the same are now transmitted to your honorable court; that we proceeded on board the said vessel, the Sea Witch, and examined her condition, and that it was impossible to state whether bulk had been broken or not; that the cargo consists of 250 bags of coffee and 9 cases and 2 bbls. of drugs, and that it is impossible to ascertain exactly the nature or quality of the cargo without an unloading and unlivery of the same, which proceeding we now recommend to this honorable court;
8 all of which, including the deposition of said prize master, with the documents by him identified, and the answers to the

interrogatories taken as above, are hereby submitted to this honorable court and deposited in its custody.

D. AUGUSTIN,
T. B. THORPE,
U. S. Prize Commissioners.

9 District court of the United States for the eastern district of Louisiana.

In the matter of schooner Sea Witch and her cargo, a prize.

James Brown, prize master of the sch'r Sea Witch, acting ensign U. S. N., detached from the U. S. st'r Metacomet, of which James E. Jewett is commander, being duly sworn, deposes and says, that the sch'r Sea Witch was captured on Saturday, 31st Dec'r, 1864, at 7 p. m., in lat. 27° 16′ N., long. 93° 59′ W., about 76 miles S.SE. from Galveston, Texas, for violating the rules governing the blockade; and said James Brown deposes and says that certain papers, marked from A to N inclusive, and further identified by the initial letters put on them by U. S. Prize Commissioner D. Augustin, are the same that were captured with the sch'r Sea Witch, and that the deponent has delivered to the prize commissioner each and every document, paper, and writing whatsoever received by him relating to the aforesaid captured property, in the same state and condition in which he received them, without "fraud, subornation, or embezzlement," and without any addition or alterations whatsoever, and he does not know, nor does he believe, that any of the documents are missing or wanting.

And deponent further says, that if at any time hereafter and before the final condemnation or acquittal of said captured property any further or other paper relating thereto shall be found or discovered to his knowledge, they shall be delivered up or information thereof given to the prize commissioners of this district or to the honorable court.

JAMES BROWN, *Act. Ensign.*

Sworn to and signed before me, United States prize commissioner, this the 21st day of January, 1865, New Orleans, La.

D. AUGUSTIN.
U. S. Prize Commissioner.

10 District court of the United States for the eastern district of Louisiana.

In the matter of the schooner Sea Witch and cargo, a prize.

Deposition of Pierre Jaureguiberry, a witness produced, sworn, and examined in preparatorio on the 21st day of January, in the year eighteen hundred and sixty-five, at the office of the U. S. prize commissioners, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by James Brown, prize master sch'r Sea Witch, and act. ensign U. S. N., in behalf of the captors of a certain vessel called the Sea Witch.

To the first interrogatory the witness answers:

1. That he was born in France, but is now a Mexican subject; has

lived in Mexico since 1835; owes allegiance to Mexico; not married.

2. I was present at the capture of the Sea Witch; was on board as captain of the schooner.

3. The seizure was made in lat. 27° 7′. N. and long. 93° 40′ W., one hundred and forty-two (142) miles from shore. The capture
11 was made by the U. S. gunboat Comet; the schooner was brought to New Orleans.

4. The schooner Sea Witch sailed under English colors; had no other colors on board.

5. There was no resistance made to the capture; there were no other ships in sight at the time of the capture.

6. The seized vessel was simply a merchantman.

7. The name of the seized vessel was the Sea Witch; I was the captain; I was appointed captain by the owner of the vessel or consignee.

8. I have known the vessel near ten years. I took possession of her at Vera Cruz, Mexico. The sch'r is about 100 tons burden. Her crew consisted of ten in all, including officers; all came on board at Vera Cruz; I hired the crew.

9. I belonged to the sch'r as captain; had no interest in cargo or sch'r.

10. I have known the vessel nearly ten years. I first saw her in Campeachy, Mexico. She is American built. I have known her by the name of Pizarro. She was called this name when she came from Baltimore. The French took her about two years ago, and armed her with a gun; about three months ago the French consul at
12 Vera Cruz sold her at public sale, and Mr. Fell bought her, and he named her the Sea Witch. Mr. Fell owns the vessel, and Mr. Somohano, a Spaniard, and a merchant at Vera Cruz, loaded the vessel and put me in as captain.

11. At the time of the capture I was going with a gale—a wind S.SE.—with the intention of going to Vera Cruz. I thought the vessel could not live on the sea. The voyage began at Vera Cruz, and was to have continued to New Orleans, and thence back to Vera Cruz, but owing to the bad weather I found I could not live on the sea, so I turned back to Vera Cruz. The cargo on the schooner was put on board the 9th of November, 1864, and so on, perhaps, to the 14th of November, 1864. There was nothing on the vessel that I knew to be contraband.

12. I had on board the vessel all the papers necessary—her regular clearance, and none other. The last port the schooner sailed from was Tuspan, Mexico.

13. The cargo on the vessel when she was captured is what she had put on board of her at Vera Cruz; the cargo was put aboard between the 9th and the 14th of November, 1864.

14. The owner of the cargo is Mr. Somohano, of Vera Cruz.
13 Mr. Fell, of Vera Cruz, owns the vessel. Mr. Somohano is a Spaniard. Mr. Fell is an Englishman.

15. The vessel was sold at public sale, at auction, three months ago,

by the French consul at Vera Cruz, and Mr. Fell at this sale purchased the vessel.

16. The cargo, as I have already stated, was put on board on the 9th and 14th of November, 1864, at Vera Cruz. The owner of the cargo was Mr. Somohano, of Vera Cruz. I believe if the vessel had reached New Orleans, the cargo would have belonged to Mr. Somohano.

17. The papers on the vessel were such as are usual in all legal clearances.

18. There were no papers belonging to the vessel that I knew of that were not captured with the vessel.

19. The degrees of lat. and long. I have already stated; the capture was made on 30th or 31st of December, 1864—don't know the day of the week—about 5½ p. m., 1864. I signed no charter, and I don't know anything about one.

20 and 21. There were no papers belonging to the vessel that I knew of that were not captured with the vessel.

22. I was bound for New Orleans when I started on the
14 voyage, where I knew there was no blockade.

23. The papers of the vessel were examined two days before my capture by a U. S. gunboat, Captain Clary or Carey. The captain examined all my papers; sent two officers on board my vessel and examined all my cargo. I went on board the U. S. gunboat, which was the Seminole; was treated very politely by the chief officer, who told me my papers were all right.

24. Know nothing.

25. The Sea Witch was seized as a prize by France, and sold as such, as already stated; don't know of any other instance.

26. I don't know what loss I have sustained.

27. I don't know of any insurance; did not notice any insurance, if there was any.

28. The goods were consigned in New Orleans to Mr. Farino, or Messrs. Cramer & Co., for the account of Somohano, of Vera Cruz.

29. The cargo consisted of nine cases of drugs, and two bbls. of drugs, and two hundred and fifty bales of coffee. Twenty-four hours after I left Vera Cruz my vessel was full of water, and I went into Tuspan, and I found there plenty of bags, and I put all the
15 cargo in the custom-house at Tuspan, and calked the vessel at the navy yard; and after I calked the vessel I put the cargo on board, and the bales of coffee broke, and I put it, the coffee, in new sacks. The weight of the coffee is nearly the same; I may have lost a little in the removal of the coffee, but I put the coffee in new sacks. There are more sacks of coffee than are on the manifest, but nearly the same weight. The coffee was raised at Cordova, Mexico. The drugs I don't know anything about, except they were bought at an auction at Vera Cruz. I left Vera Cruz on the 16th of November, 1864. I went into Tuspan some six or seven days afterwards.

30. The cargo was loaded on the vessel at Vera Cruz, from lighters, at Tuspan; the vessel lay close to the shore.

31, 32. There were no papers belonging to the vessel destroyed, that I know of.

33. Bulk was not broken except at Tuspan, as I have already stated; otherwise it is the same cargo which I took on board at Vera Cruz.

34. There was one passenger on the schooner; he came on board at Vera Cruz; he is a German; I think he is a merchant at Vera
16 Cruz.

35. Know nothing of any papers belonging to the vessel not already stated.

36. At the time the vessel was captured she was making for Vera Cruz, as I have already stated; she left Vera Cruz and put into Tuspan, in distress. After repairing at Tuspan the schooner was at sea several days, when I got heavy seas and heavy north winds, and I found I could not continue my voyage, so I turned back to Vera Cruz, and was captured on my way to Vera Cruz, as I have already stated.

37. Know nothing of the history of the vessel that I have not already fully stated.

38. There were no guns or munitions of war on board. There were some three or four or more 32 or 33 pound balls on board left by the French when they used the schooner as a gunboat; I never noticed how many balls there were; did not think of them.

39. I know nothing of the vessel not already stated. I shipped on an honest voyage, and what I have stated regarding the schooner and cargo is the truth.

17 40. The schooner while on the voyage on which she was captured sailed by herself.

41. The vessel never attempted to run any blockade that I know of.

42. The vessel on her last voyage sailed from Vera Cruz; was bound for New Orleans, and thence back to Vera Cruz. She had only the usual papers of merchant vessels.

43. The vessel never sailed in company with any other vessel on the voyage on which she was captured.

P. JAUREGUIBERRY.

Sworn to and subscribed before me this 21st day of January, 1865. New Orleans, La.

P. B. THORPE, *U. S. Prize Commissioner.*

18 District court of the United States for the eastern district of Louisiana.

In the matter of the schooner Sea Witch and cargo, a prize.

Deposition of John Johnston, 2d mate, a witness produced, sworn, and examined in preparatorio on the 21st day of January, in the year eighteen hundred and sixty-five, at the prize commissioners' office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination in behalf of the captors of a certain vessel called the Sea Witch.

To the first interrogatory the witness answers:

1. I was born in Hamburg; I live there; I am a citz. of the free

city of Hamburg; I never became a citizen of the United States; I am not married.

2. I was present at the capture.

3. The schooner was captured in long. 93° 40′, and the latitude I have forgotten, about 140 miles from land, on the 31st December, 1864, about 7 p. m. The sch'r was brought to New Orleans.

4. We sailed under English colors, and had none other.

5. No resistance was made; one gun fired and we hove to. We had no sail up; it was blowing very heavy at the time. The U. S. st'r Metacomet made the capture; there were no other vessels in sight at the time.

6. Don't know.

7. The name of the sch'r is the Sea Witch. The captain is named Peter; his other name is too long to remember; don't know whom appointed him captain; it was at Vera Cruz; he is a Frenchman.

8. The Sea Witch is a 100-ton vessel. There were eleven men on board, all told, one of whom was a passenger.

9. I was second mate of the captured schooner. Neither myself or any of the officers or crew had any interest in either vessel or cargo.

10. I have known the vessel since I came on board, 14th Nov'r, 1864, at Vera Cruz; don't know where built; never heard her called by any other name.

11. The schooner was bound for New Orleans, and was coming here from Vera Cruz and Tuspan, the voyage to end here; she went to Tuspan after we left Vera Cruz; we sprung a leak and were obliged to go in there; we were pumping for 10 days continually, and we went there to repair; we remained there about 26 days. We have a cargo of coffee and 9 boxes of drugs; we had 250 sacks of coffee. This cargo was put aboard at Vera Cruz, and is still aboard.

12. I know nothing of the vessel's papers; don't know what has become of them; know nothing of her previous voyages or history. We left Tuspan on 22nd Dec'r, 1864, and Vera Cruz on 16th of November, 1864.

13. Cargo of coffee and drugs.

14. Don't know the owners of vessel and cargo.

15. Don't know of any sale of the sch'r.

16. Don't know laders and owners, and believe consignees were Messrs. Cramer & Co. here.

17. Know nothing of the bills of lading.

18. Don't know.

19. We were captured at sea, as I have before stated.

20. Don't know.

21. Don't know whether or not the coast of Texas was blockaded.

22. Don't know whether the coast was under an order of blockade.

23. Two days before the capture a U. S. gunboat boarded us; examined our papers and cargo; said everything was correct, and allowed us to proceed; this was the U. S. st'r Seminole.

24. The schooner never attempted to run the blockade.

25. I do not know whether she has ever been seized as prize, except a seizure I heard the French had made of her from the Mexicans.
26. I have lost nothing by the capture.
27. Don't know whether either vessel or cargo are insured.
28. Don't know.
29. I think the coffee was raised in Mexico.
30. Cargo was put aboard by means of lighters.
31. Don't know.
32. Don't know.
33. Same cargo aboard as when we left Vera Cruz.
34. There was one passenger aboard coming to New Orleans; he came aboard at Vera Cruz, and is a merchant there.
35. Know nothing of the papers.
36. We were going right before the wind and sea; a heavy gale blowing at the time of capture.
37. Know of no sale of the schooner.
38. There was nothing on board contraband of war.
22 39. We were coming direct to New Orleans from Vera Cruz and Tuspan, with a cargo of coffee and drugs.
40, 41, 42, and 43. We never sailed under convoy of armed vessels; never carried a commission to act as privateer, and never sailed in company with armed vessels.

JOHN JOHNSTON.

Sworn to and subscribed before me this 21st January, 1865.
T. B. THORPE, *U. S. Prize Com'r.*

23 District court of the United States for the eastern district of Louisiana.

In the matter of the schooner Sea Witch and cargo, a prize.

Deposition of Antonio Amaba, a witness produced, sworn, and examined in preparatorio on the 17th day of January, in the year eighteen hundred and sixty-four, at the prize commissioner's office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana; the said witness having been produced for the purpose of such examination in behalf of the captors of a certain vessel called the Sea Witch.

To the first interrogatory the witness answers:
1. I was born in Spain and live there; I am a subject of the queen of Spain; I am married, and my family live in Spain.
2. I was present at the capture of the schooner and cargo.
3. The schooner was captured about 100 miles from the coast of Texas, while on her way to New Orleans, on the 31st day of
24 December, 1864; I do not know where the schooner now is. I was sent aboard the capturing vessel, and do not know what has become of the schooner. I do not know why the schooner was captured; it was, I believe, because the captors wished it.
4. The schooner sailed under English colors, and had none other on board.

city of Hamburg; I never became a citizen of the United States; I am not married.

2. I was present at the capture.

3. The schooner was captured in long. 93° 40′, and the latitude I have forgotten, about 140 miles from land, on the 31st December, 1864, about 7 p. m. The sch'r was brought to New Orleans.

4. We sailed under English colors, and had none other.

5. No resistance was made; one gun fired and we hove to. We had no sail up; it was blowing very heavy at the time. The U. S. st'r Metacomet made the capture; there were no other vessels in sight at the time.

6. Don't know.

7. The name of the sch'r is the Sea Witch. The captain is named Peter; his other name is too long to remember; don't know whom appointed him captain; it was at Vera Cruz; he is a Frenchman.

8. The Sea Witch is a 100-ton vessel. There were eleven men on board, all told, one of whom was a passenger.

9. I was second mate of the captured schooner. Neither myself or any of the officers or crew had any interest in either vessel or cargo.

10. I have known the vessel since I came on board, 14th Nov'r, 1864, at Vera Cruz; don't know where built; never heard her called by any other name.

11. The schooner was bound for New Orleans, and was coming here from Vera Cruz and Tuspan, the voyage to end here; she went to Tuspan after we left Vera Cruz; we sprung a leak and were obliged to go in there; we were pumping for 10 days continually, and we went there to repair; we remained there about 26 days. We have a cargo of coffee and 9 boxes of drugs; we had 250 sacks of coffee. This cargo was put aboard at Vera Cruz, and is still aboard.

12. I know nothing of the vessel's papers; don't know what has become of them; know nothing of her previous voyages or history. We left Tuspan on 22nd Dec'r, 1864, and Vera Cruz on 16th of November, 1864.

13. Cargo of coffee and drugs.

14. Don't know the owners of vessel and cargo.

15. Don't know of any sale of the sch'r.

16. Don't know laders and owners, and believe consignees were Messrs. Cramer & Co. here.

17. Know nothing of the bills of lading.

18. Don't know.

19. We were captured at sea, as I have before stated.

20. Don't know.

21. Don't know whether or not the coast of Texas was blockaded.

22. Don't know whether the coast was under an order of blockade.

23. Two days before the capture a U. S. gunboat boarded us; examined our papers and cargo; said everything was correct, and allowed us to proceed; this was the U. S. st'r Seminole.

24. The schooner never attempted to run the blockade.

25. I do not know whether she has ever been seized as prize, except a seizure I heard the French had made of her from the Mexicans.
26. I have lost nothing by the capture.
27. Don't know whether either vessel or cargo are insured.
28. Don't know.
29. I think the coffee was raised in Mexico.
30. Cargo was put aboard by means of lighters.
31. Don't know.
32. Don't know.
33. Same cargo aboard as when we left Vera Cruz.
34. There was one passenger aboard coming to New Orleans; he came aboard at Vera Cruz, and is a merchant there.
35. Know nothing of the papers.
36. We were going right before the wind and sea; a heavy gale blowing at the time of capture.
37. Know of no sale of the schooner.
38. There was nothing on board contraband of war.
22 39. We were coming direct to New Orleans from Vera Cruz and Tuspan, with a cargo of coffee and drugs.
40, 41, 42, and 43. We never sailed under convoy of armed vessels; never carried a commission to act as privateer, and never sailed in company with armed vessels.

JOHN JOHNSTON.

Sworn to and subscribed before me this 21st January, 1865.
T. B. THORPE, *U. S. Prize Com'r.*

23 District court of the United States for the eastern district of Louisiana.

In the matter of the schooner Sea Witch and cargo, a prize.

Deposition of Antonio Amaba, a witness produced, sworn, and examined in preparatorio on the 17th day of January, in the year eighteen hundred and sixty-four, at the prize commissioner's office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana; the said witness having been produced for the purpose of such examination in behalf of the captors of a certain vessel called the Sea Witch.

To the first interrogatory the witness answers:
1. I was born in Spain and live there; I am a subject of the queen of Spain; I am married, and my family live in Spain.
2. I was present at the capture of the schooner and cargo.
3. The schooner was captured about 100 miles from the coast of Texas, while on her way to New Orleans, on the 31st day of
24 December, 1864; I do not know where the schooner now is. I was sent aboard the capturing vessel, and do not know what has become of the schooner. I do not know why the schooner was captured; it was, I believe, because the captors wished it.
4. The schooner sailed under English colors, and had none other on board.

5. There was no resistance made; one gun was fired to bring her to; we were captured by the U. S. st'r Metacomet. We had no sail up, as the weather was very heavy.

6. Don't know.

7. The schooner is named the Sea Witch; the captain's name is Pedro Arto, a Frenchman; I do not know who appointed him; he was made captain in Vera Cruz, about four months ago.

8. The schooner's tonnage I do not know; I think she is of 100 tons, more or less. There were 11 men on board at the time of the capture, all told, and one of them was a passenger; the crew were shipped at Vera Cruz by the captain some 4 months ago, and some less.

9. I was mate of the schooner. Nobody on board had any
25 interest in either vessel or cargo.

10. I have known the schooner about seven years; she was formerly called the Pizarro; she belongs to Mexico; she was captured by the French and then sold.

11. The schooner was bound for New Orleans; the voyage commenced in Vera Cruz. The captain told me the schooner was to come here to be refitted, but I do not know where she was then to go. We have a cargo of coffee and some boxes of merchandise, the contents of which I do not know; the cargo was put aboard in Vera Cruz about three months ago. I do not know that there was any article on board but what was placed on the manifest.

12. The schooner had a set of English papers; the schooner left Vera Cruz on the 11th November last, I believe.

13. The schooner carried a cargo of coffee, &c., for New Orleans.

14. I do not know who owned the schooner or cargo. I do not know where the owner or owners live; I know nothing of them.

26 15. The schooner was captured by the French about 4 months ago, and was sold; I do not know what was paid for her.

16. The cargo was put aboard at Vera Cruz; I do not know the laders, owners, or consignees.

17 and 18. I do not know whether there were any bills of lading signed for the cargo.

19. We were captured while on our way to New Orleans, off the coast of Texas, about 100 miles distant from the shore; I do not know where we were at the time.

20. All the papers were delivered to the capturing vessel, the st'r Matacomet.

21 and 22. We all knew that the coast of Texas was blockaded by order of the U. S. government.

23. On the second day after leaving Vera Cruz, we endeavored to make a port on the Mexican shore, and were grounded; and after the weather had moderated, we started again for New Orleans, and were not stopped until the Metacomet captured us.

24. The schooner never to my knowledge attempted to break any blockade.

25. The vessel was seized by the French as a prize at Vera
27 Cruz, and sold there as such.

26. I may lose a portion of my clothes by the capture.

27. I do not know whether either vessel or cargo are insured.

28, 29, 30, 31, and 32. The papers were given to the captors, and the cargo was put aboard by means of lighters.

33. The schooner's cargo was taken out at Tuspan, a Mexican port, in order to calk the sch'r, but it was all replaced on board after she had been repaired.

34. There was one passenger on board who was coming to New Orleans; he came aboard at Vera Cruz. I do not know his business. He was a German, I believe.

35. I saw the papers of the schooner, signed before the English consul at Vera Cruz.

36. We were lying to with no sail up at the time of the capture, except the jib; we were under heavy weather.

37. I have already answered this interrogatory.

28 38. There were no goods on board that were contraband of war to my knowledge.

39. We were coming to New Orleans with the cargo we had on board.

40. We never sailed under the convoy of armed vessels.

41. We were visited by the U. S. st'r Indianola some days after the schooner had left Vera Cruz, which vessel examined our papers, and finding them all right, allowed us to proceed on our voyage.

42 and 43. The schooner never sailed in company with armed vessels.

ANTONIO AMABA.

Sworn to and subscribed before me this 17th January, 1865.

T. B. THORPE, *U. S. Prize Com'r.*

29 District court of the United States for the eastern district of Louisiana. In the matter of the sch'r Sea Witch and cargo, a prize.

Deposition of Jose Arazuria, a witness produced, sworn, and examined in preparatorio on the 17th day of January, in the year eighteen hundred and sixty-five, at the prize commissioner's office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination in behalf of the captors of a certain vessel called the Sea Witch.

To the first interrogatory the witness answers:

1st. I was born in Spain, and live there; I am a subject of the queen of Spain; I am not married.

2. I was present at the capture.

3. The schooner was captured on the high sea. I do not know where we were. We were captured Dec. 31, 1864. I do not know what

has become of the schooner; I was brought here on a transport.
30 I do not know why the sch'r was captured.

4. The schooner sailed under English colors and had none other.

5. No resistance was made. The capture was made by the U. S. st'r Metacomet. There were no other vessels in sight at the time.

6. Don't know.

7. The schooner was named the Sea Witch. The captain was called Don Pedro. I do not know who made him captain.

8. The schooner's tonnage I do not know; I think she is about 45 tons burden. There were 10 men and one passenger aboard at the time of the capture. All came aboard at Vera Cruz.

9. I was a seaman on board the sch'r. Nobody on board owned any part of vessel or cargo.

10. I have known the schooner since I have been aboard, some 3 or 4 months; I heard her called the Pizarro.

11. The schooner was bound to New Orleans. She started from Vera Cruz; stopped at Tuspan, Mexico; was on her way here when captured; we had a cargo of coffee, and some cases the contents of which were unknown to me. The cargo was put aboard at
31 Vera Cruz some three months ago.

12. I do not know anything of the schooner's papers, and do not know what has become of them.

13. We had a cargo of coffee, &c.

14. Don't know owners of vessel or cargo.

15. I heard that the vessel was bought from the French at Vera Cruz.

16. The cargo was put aboard at Vera Cruz. Don't know laders, owners, or consignees.

17, 18, and 19. Don't know.

20. Don't know.

21 and 22. I knew the coast of Texas was blockaded.

23. The schooner touched at Tuspan after leaving Vera Cruz, and we were afterwards stopped by an American man-of-war, who sent on board an officer who examined the papers in the cabin, and then he went away, and we proceeded on our voyage until we were stopped by the Metacomet.

24. The sch'r never ran the blockade.

25. The sch'r was sold by the French at Mexico.

26. If I am paid my wages I lose nothing.

27. Don't know.

28. Don't know.

29. Don't know.

30. The cargo was put aboard by means of lighters.

31 and 32. Don't know.

32 33. Bulk has not been broken since we unloaded and reloaded at Tuspan.

34. There was one passenger bound for New Orleans on board, who came on in Vera Cruz.

35. Don't know.

36. We were running with rough weather with the jib alone up when we were captured.

37. The schooner was sold in Vera Cruz.

38. I do not know whether there were any goods on board contraband of war.

39. The schooner was bound for New Orleans from Vera Cruz, and we were on our way here when captured. We left Vera Cruz the 16th Oct'r, 1864, and went into Tuspan, Mexico, for repairs, and then proceeded on towards New Orleans.

41, 42, 43. We never sailed under convoy of armed vessels, nor cruised against persons or property of citizens of the United States.

JOSE ARAZURIA.

Sworn to and subscribed before me this 17th January, 1865.

T. B. THORPE,
U. S. Prize Commissioner.

33 District court of the United States for the eastern district of Louisiana.

In the matter of the sch'r Sea Witch and cargo, a prize.

Deposition of James Brown, act. ensign U. S. N., a witness produced, sworn, and examined *de bene esse* on the 24th day of January, in the year eighteen hundred and sixty-five, at the prize commissioner's office of the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples. esq., U. S. dist. att'y, in behalf of the captors of a certain vessel called the Sea Witch.

I am an acting ensign of the U. S. st'r Metacomet, and was ordered to take command of the schooner Sea Witch, and report her to New Orleans for adjudication as lawful prize of war. While on our route for New Orleans, and when lying off Sabine, on the
34 8th of January, a heavy gale from the E.NE., blowing fresh, the ship rolling heavily, I discovered five 32-pound shot rolling out from under the floorway; I also heard two more rolling under the carvel about amidships, and my impression is there are a great number on board. The captain said he knew nothing of them; did not know they were on board, excepting two he knew were there, for he saw them while at Tuspan, Mexico.

JAMES BROWN.

Sworn to and subscribed before me this 24th January, 1865.

T. B. THORPE, *U. S. Prize Com'r.*

DOCUMENTS AND PAPERS FOUND ON BOARD AND FILED BY PRIZE COMMISSIONERS.

35 *Document B.—Provisional certificates.*

Name of ship, Sea Witch; British or foreign build, foreign; how propelled, sails; number of decks, one; build, Carvel; number of masts, two; galleries, none; rigged, schooner; head, billet; stern, square; framework, wood.

MEASUREMENTS.

	Feet.	Tenths.
Length from the forepart of stem, under the bowsprit, to the aft side of the head of the stern-post	89	10
Main breadth to outside plank	23	9
Depth in hold from tonnage decks to ceiling at midships	7	0

TONNAGE.

	No of tons.
Tonnage under tonnage deck	100.95
Closed in spaces above the tonnage deck, if any, viz:	
Space or spaces between decks	
Poop	
Round-house	
Other enclosed spaces, if any, naming them	
Total tonnage	100.95

I, the undersigned, Fred. Ledward, her Britannic Majesty's
36 consul at the port of Vera Cruz, hereby certify that—

1. The ship, the description of which is prefixed to this my provisional certificate, has been duly surveyed, and that the above description is true,* the ship having been surveyed by the captain of the port of this city.

2. That Jaurequiberri, of Spain, is the master of the said ship.

3. That the said ship was built at Baltimore, on the day of 18 , and her foreign name is .†

4. That the person whose name is hereunder written, has purchased all the shares in the above ship.

Name, residence, and occupation of the owner: T. W. Fell, of London, in the county of Middlesex, England. Number of 64th shares, sixty-four, (64.)

Dated at Vera Cruz the 12th day of October, 1864.

FRED. LEDWARD,
Her Britannic Majesty's Consul.

NOTE.—This provisional certificate of registry continues in force only until the 12th day of April, 1864, or until she completes her voyage from Vera Cruz to some port at which there is a British registrar, whichever first happens—9486 wt. 1649.

37 *Document K.—Provisional register.*

I, the undersigned, F. W. Fell, of London, in the county of Middlesex, England, declare as follows:

I am a natural-born British subject; born at London, in the county of Middlesex, and have never taken the oath of allegiance to any for-

* If the ship has not been surveyed for the purpose, the consul must insert the description as fully and accurately as he can, stating how he has procured it.

† These words to be added if she is foreign.

eign state. The vessel, the description of which is prefixed to this my declaration, was built at Baltimore. That Jaurequiberri is the master of said vessel. I am entitled to be registered as owner of sixty-four shares in the said vessel. To the best of my knowledge and belief, no person or body of persons other than such person or body of persons as are by the merchant shipping act, 1854, qualified to be owners of British ships, is entitled to any interest whatever, either legal or beneficial, in the said vessel.

And I make this solemn declaration, conscientiously believing the same to be true.

Dated at Vera Cruz the 12 October, 1864.

38 F. W. FELL.

Made and subscribed by the above-named F. W. Fell in presence of me.

[SEAL.] FRED. LEDWARD,
H. B. M.'s Act. Consul.

Document C.—License.

To all to whom these presents shall come or may concern, greeting:

I, Jaureguiberri, master of the English schooner Sea Witch, of New Orleans, having exhibited to me a manifest or descriptive statement of his cargo and list of passengers and crew, and having verified the same by his oath (or solemn affirmation,) and having satisfied myself that the said vessel is intended in good faith for a lawful trade, and only for a lawful trade, permission is hereby granted, in pursuance of the proclamation of the President of the United States and the regulations of the Secretary of the Treasury, issued on the 12th May, 1862, for the said vessel to proceed to the
39 port of New Orleans, in the State of Louisiana, in the United States of America, and to leave said port for any lawful destination, on the conditions hereinafter mentioned, to wit: That the said vessel will convey no persons, property, or information contraband of war, either to or from the said port; that this license shall be exhibited to the collector of customs at the port immediately upon arrival, and to the officer in charge of the blockade on entering the port, if required; and that the master and all persons concerned in the management and control of the vessel and cargo shall faithfully comply with the revenue laws and regulations of the United States, and with the conditions of this license.

Any violation of the conditions of this license will involve the forfeiture and condemnation of the vessel and cargo, and the exclusion of all parties concerned from any further privileges of entering the United States during the war for any purpose whatsoever.

Officers of vessels-of-war and all other persons will respect this license, and permit the said vessel to proceed on her voyage unmolested while prosecuting the same in conformity to *with* its conditions.

Given under my hand and the seal of the consulate of the
40 United States at Vera Cruz, this 3d day of November, A. D. 1864.

[SEAL.] H. S. CALDERON,
U. S. V. Consul.

A proclamation.

Whereas, by my proclamation of the nineteenth of April, one thousand eight hundred and sixty-one, it was declared that the ports of certain States, including those of Beaufort, in the State of North Carolina, Port Royal, in the State of South Carolina, and New Orleans, in the State of Louisiana, were, for reasons set forth therein, intended to be placed under blockade; and whereas the said ports of Beaufort, Port Royal, and New Orleans have since been blockaded, but as the blockade of the same ports may now be safely relaxed with advantage to the interests of commerce:

Now, therefore, be it known that I, Abraham Lincoln, President of the United States, pursuant to the authority in me vested by the fifth section of the act of Congress approved on the 13th of July last, entitled "An act further to provide for the collection of duties on imports, and for other purposes," do hereby declare that the
41 blockade of the said ports of Beaufort, Port Royal, and New Orleans shall so far cease and determine, from and after the first day of June next, that commercial intercourse with those ports, except as to persons and things and information contraband of war, may, from that time, be carried on, subject to the laws of the United States, and to the limitations and in pursuance of the regulations which are prescribed by the Secretary of the Treasury in his order of this date, which is appended to this proclamation.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this 12th day of May, in the year of our Lord one thousand eight hundred and sixty-two, and of the independence of the United States the eighty-eighth.

[L. S.] ABRAHAM LINCOLN.

By the President.

WILLIAM H. SEWARD, *Secretary of State.*

TREASURY DEPARTMENT, *May* 12, 1862.

42 *Regulations relating to trade with ports opened by proclamation.*

1. To vessels clearing from foreign ports and destined to ports opened by the proclamation of the President of the United States of this date, namely, Beaufort, in North Carolina, Port Royal, in South Carolina, and New Orleans, in Louisiana, licenses will be granted by consuls of the United States upon satisfactory evidence that the vessels so licensed will convey no persons, property, or information contraband of war, either to or from the said ports, which licenses shall be exhibited to the collector of the port to which said vessels may be respectively bound, immediately on arrival, and, if required, to any officer in charge of the blockade. And on leaving either of said ports every vessel will be required to have a clearance from the collector of the customs according to law, showing no violation of the conditions of the license. Any violation of said conditions will involve the for-

feiture and condemnation of the vessel and cargo, and the exclusion of all parties concerned from any further privilege of entering the United States during the war for any purpose whatever.

43 2. To vessels of the United States clearing coastwise for the ports aforesaid licenses can only be obtained from the Treasury Department.

3. In all other respects the existing blockade remains in full force and effect as hitherto established and maintained, nor is it relaxed by the proclamation except in regard to the ports to which the relaxation is by that instrument expressly applied.

S. P. CHASE,
Secretary of the Treasury.

Document F.—Patente de Sanidad de la villa y puerto de Tuxpan.

Certificamos.—Que esta villa se halla libre de enfermedades epidemicas y contagiosas observandose las reglas mas eficaces para preservar la salud publica de todo cuanto pueda perjudicarla, y que el buque abajo espresado sale de este puerto con las condiciones siguientes:

Clase del buque, goleta; estado higienico, bueno; nom-
44 bre del mismo, Sea Witch; bandera, Inglesa; id. de la tripulacion, id.; tonelados, 100; tripulacion, 8 hombres; destino, N. Orleans; id. de los pasajeros, id.; nombre del capitan, P. Jaurequiberri; carga, cafe; viveres, id.; fuerza de caballoso, ; pasageros, uno; agua, id.; enfermes a bordo, ninguno.

Por tanto y para que conste espedimos la presente en Tuspan a 20 de Diciembre de 1864.

Presidente, DR. ORDOYSITI.
Vocal capitar del puerto, JOSE SALVAT.
Secretario, P. S. LAWER.

Indorsed: Agence Consulair de France a Tuspan.

Nous, agent consulaire de France a Tuspan, certifions, qu au depart de ce port du navire Anglais Sea Witch, equipe de huit hommes en tout, ayant a son bord un passager et un chargement de marchandises diverses. La sante publique est bonne dans la ville; qu'il n'y existe aucune maladie epidemique ou contagieuse, et que les pays environs sont sains.

45 En foi de quoi nous avons delivre le present, et y avons appose notre sceau a Tuspan, le 20 Decembre, 1864.

L'agent consulaire, S. M. MORALES. [SEAL.]

No. d'ordre, 13; du tarif, 52; 10 f., fifty c. Solvet.

Document L.

Hippolite Deschamps, administrador de la aduana maritima de este puerto:

Certifico.—Que la goleta Inglesa Sea Witch, entro el arribada a este puerto para reparar averias el dia veinte y seis de Noviembre ppo y queda despachada hoy para Nueva Orleans con el mismo cargamento que conduce de Vera Cruz para aquel puerto.

Y para que conste libro el presente en Tuspan a veinte de Diciembre de mil ochocientos sesenta y cuatro.

El administrador,

[SEAL.] HIPPOLITE DESCHAMPS.

46 *Document E.*

BRITISH CONSULATE, *Vera Cruz.*

To all to whom these presents shall come:

I, Fred Ledward, her Britannic Majesty's consul for the city and port of Vera Cruz, do hereby certify, that Jaurequiberri, master of the Sea Witch, of , admeasuring 100 tons or thereabouts, now in this port, and about to sail for New Orleans, hath produced at this office the certificate of registry of said vessel, together with the other documents required by law; that I have examined the shipping articles, and find said vessel is navigated by ten persons, and that of the crew have died, and deserted from said vessel at this port.

In testimony whereof, I have hereunto affixed my hand and seal of office, at Vera Cruz, this fourteenth day of November, 1864.

[SEAL.] FRED. LEDWARD, *H. B. M. Consul.*

47 *Document G.*

Factura de los siguentes efectos embarcados en la goleta Inglesa Sea Witch, Capitan Jaureguiberri, con destino a New Orleans, a consignacion del Sr. D. D. Farrington, por a'c espedicion, a saber:

250 tercios cafe con 51,639 libras 7, at 24 c		$12,393 36
11 cajas medicinas, valor		1,534 65
261 bultos		13,928 01
Gastos:		
Conduciones	$32 50	
Embarque	47 50	
Comision, 2½ per cent. on $13,928	348 20	
		428 20
		14,256 21

S. E. & O.

Vera Cruz, Noviembre 8, 1864.

A. SOMOHANO & CO.

Document I.

48 Marcas, numeros, bultos

A. Somohano y Ca. han embarcado en la goleta Inglesa Sea Witch, de mi mando, anclado en este puerto y proximo a zarpar para dirigirse al de N. Orleans, 250 tercios cafe con 51,682 libras, 11 cajas medicinas, lo que he recibido en buen estado, en el mismo que, verificado mi salvo arribo con el dicho buque al citado puerto o al en que se diere

por cumplido mi registro, me obligo a entregarlo a D. F. Farrington, o a su poder mediante la remuneracion por flete y conduccion cuanta de espedicion para cuyo cumplimiento someto mi persona y bienes a la practica y legislacion mercantil, firmando cuatro de un tenor.

Vera Cruz, a 12 de Nov'bre de 1864.

Ignoro contenido y no respondo de averias.

P. JAUREQUIBERRI.

Document M.

AGENCE CONSULAIRE DE FRANCE A TUSPAN.

Nous, agent consulaire de France a Tuspan, certifions que la goelette Anglaise Sea Witch, capitaine Jaurequiberry est entree dans ce port en relaitre de 26 de Novembre dernier, pour reparer des avaries, verant de Vera Cruz; et part expediee pour la Nouvelle Orleans, (Etats Unis) aves toutes les formalites de la loi.

Tuspan, le 20 Decembre, 1854.

[SEAL.] L'Agent Consulaires F. M. MORALES.

No. d'ordre, 13; No. du tarif, 59; 10 f. 50 c. solvet.

Document II.—Form No. 142.

Declaration to be made by the purchaser, manufacturer, owner, or duly authorized agent of such purchaser, manufacturer, or owner, where merchandise has been actually purchased, and to be endorsed on or attached by tape and seal to each of the triplicate invoices.

I, A. Somohano & Co., of Vera Cruz, do solemnly and truly declare that I am the owner of the goods, wares, or merchandise in the within invoice mentioned and described; that the said invoice is in all respects true; that as to the goods, wares, and merchandise therein mentioned, it contains a full and true statement of the time when and the place where the same were purchased, the actual cost and quantity thereof, and all charges thereon; that no discounts, bounties, or drawbacks are contained in said invoice, except such as have been actually allowed thereon; that the currency in which said invoice is made out is the currency which was actually paid for the said goods, wares, and merchandise, and that no different invoice thereof has been or will be furnished to any one.

I further declare that it is intended to make entry of the goods, wares, and merchandise mentioned in said invoice at the port of New Orleans, in the United States of America.

(Signed in triplicate) A. SOMOHANO & CA., *Owners.*

Dated at Vera Cruz, this 26th day of October, 1864.

NOTE.—After the word "I," in first line, insert the name of the person making the declaration; after the word "of" insert the name of the place; and after the words "I am" the corresponding designation as owner, purchaser, manufacturer, or duly authorized agent, as the case may be; after the signature insert the designation.

Annexed: Factura de lo siguente embarcadó en la goleta Inglesa Sea Witch, capitan P. Jaurequiberri, con destino a Nueva Orleans, y a consignacion del S'r D'n J. F. J. Farrington, por cuenta de quien corresponda, a saber.

51

250 tercios cafe en grano con el peso neto en junto de 51,600 libres, at 25 c		$12,900 00
11 cajas drogas, at $50		550 00
261 bultos		13,450 00
Gastos :		
Conduciones	$32 50	
Embarque	47 50	
Comision, 2½ per cent. a $13,450	336 25	
		416 25
		13,886 25

Vera Cruz, Octubre 26, 1864.

A. SOMOHANO & CA.

On reverse:

Form No. 144.

Certificate of consular officer, to be indorsed on or attached by seal and tape to each of the triplicate invoices.

I, the undersigned, U. S. V. consul of the United States at Vera Cruz, do hereby certify that at Vera Cruz, on this 26th day of October, anno Domini 1864, the within invoice, numbered 1, in which are mentioned and described certain 250 bales coffee, 11 boxes drugs, amounting, with the charges thereon, to the gross sum of $13,886 25, was produced to me by A. Zomohano, esq., in
52 person, the owner of the goods, wares, and merchandise therein mentioned, who thereupon declared in writing, in my presence, that it was intended to make entry of said goods, wares, and merchandise at the port of New Orleans, in the United States of America.

I do further certify that I am satisfied that the person making the declaration hereto annexed is the person he represents himself to be; that he is a credible person, and that the statements made in the said declaration are true.

Witness my hand and seal of office at the day and year aforesaid.

[L. S.] A. S. CALDERN, *U. S. V. Consul.*

U. S. Consulate, Vera Cruz.

Triplicate invoice, No. 47; amount, $13,886 25; consular fee, $2 50.

NOTE.—Insert after the name in the first line the proper title of the consular office, and after the word "certain," a general description of the kind of merchandise mentioned in the invoice; on the [L. S.] place the seal of the consulate.

53 *Document J.*

P'r Sea Witch, *Tuspan, December* 22, '64.

S'res Cramer & Co., New Orleans:

Muy S'res Mios: Despues de confirmar mi carta 19 del actual que diriji a Vs. por el bergantin Mexicano Hercules, me ahora manifestar a Vs. que la presenta goleta Inglesa Sea Witch, despachada para esa portos S'res A. Somohano y Ca., de Vera Cruz, entro de arribada en este puerto el 26 del ppdo; con objeto de reparer averias. Hoy queda completamiente lista para continuar el viaje con ese destino; pero como se ha demorado en esta alguntiempo, he recibido instruciones de los espresados, S'res, de Vera Cruz, encargandose remita a Vs. la adjunta carta para el Sr. D. J. Farrington, con el fin de que si este Sr. nose encontrare en esa plaza, se sirovan Vs. abrirla y rumplir con las ordenes que le commucion en ella, en defecto del espresado, Sr. Farrington.

Tengo el gusto de repetirme de Vs. afruo y atento.

S. S. Q. B. S. M.

DIEGO DEL NOVAL.

54 *Document K.*

Sr. D. J. Farrington, New Orleans:

Vera Cruz, *Noviembre* 12, '64.

Muy Sr. Nuestro y Amigo: Sabedores de que ha pasado ud a esa ciudad de Nueva Orleans, y contando como hemos contado siempre con su buena amistad, su intelligencia y buenos descos de servir nos, seguros de esto hemos dispuesto mandarle por nuestra g'ta Ing'a Sea Witch, Capitan Jaureguiberri, para que le haja V. dar en ese puerto la general carena, que necessita y que deseauros sea hecho con perfeccion y solidez aunque sea un algo mas costosa de lo que generalmente con esos trabajos.

Con el objeto de atender a esos gastos y que a su vuelta pruda traernos alguna havena y manteca para misorar los gastos en lo posible con este objeto repetimos mandamos a V. en W. Goleta y por cuenta de su espedicion, 250 tr's cafe en grano superior; 11 cajas medicinas que compranoos aqui en remate publico, muy bara-
55 tas, por lo que esperamos nos des en ese buen resutta do do que no logranos aqui por que estos drogistos que nos vieron comprar, relinsan daenos la utilidad que se debida. Indemnos la factura consular de este envio, asi como la nuestra del costo de las mercancias y el conocto. firmado por el capitan a quien recomendanos a V. mucho.

Procure V. que la obra de nuestra goleta sea pronta y con el valor que debe sobrar de nuestra factura, remitanos V. incomitad de ese valor investido en harmas de San Luis superiores y la otra mitad en manteca en tercerola grande. Si estos dos articulos nos dan un bueno resultado volveremos a mandarle nuestra goleta para lo cual denos V. tambien alguno buenos informes de ese plaza, lo que conocdrose llevar de aqui.

S'rnes de V. afinio amigos y S. S.

A. SOMOHANO & CA.

P. D —Si no lograsse V. un precio por el cafe y medicinas que nos proportione alguna utilidad sirvase despachar nuestro buque con su corgam'to a Matamoras o Tampico.

A. SOMOHANO & CA.

57 *Document D.—Agreement.*

Name of ship, Sea Witch; port of registry, provisionally registered; number of registry, ——; name of master, ———; number of certificate, ——; date and place of first signature of agreement, Vera Cruz, Nov. 14, 1864.

The several persons whose names are hereunto subscribed hereby agree to serve on board the Sea Witch in the several capacities expressed against their respective names on the voyage from the port of Vera Cruz to the port of New Orleans, and the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said master, or of any other person who shall lawfully succeed him, and of their superior officer in everything relating to the said ship, and the stores and cargo thereof, whether on board, on shore, or in boats. In consideration of which services duly performed the said master hereby agrees to pay to the said crew as wages the sums against their names respectively expressed, and to supply them with good and sufficient provisions according to the annexed scale. And it is hereby agreed that any embezzlement or wilful or negligent destruction of the said ship, cargo, or any part thereof, or of stores, or of any part thereof, shall be made good to the owners out of the wages of the persons guilty of the same; and if any person enters himself as qualified for a duty which he is incompetent to perform, his wages shall be reduced in proportion to his incompetency.

In witness whereof, the said parties have subscribed their names on the day against their respective signatures.

(Sig.) P. JAUREGUIBERRY,
on 14 *November*, 1864.

Mentioned provisions: Vinegar, sugar, rice, coffee, beef, pork, bread, in regular proportions.

CO Signatures of crew.	Age.	Town or county where born.	Ship in which he last served.	Place and time of entry.	Capacity.	Time at which he is to be on board.	Amount of wages.	Advance.	Shipping master's signature.
Antonio Hamabar	28	Spain	Mex. sch'r Mamulito	V. Cruz, 5 Oct., 1864	Mate	At once	$30	1 month	T. B L.
John Johnson	42	Hamburg	Mex. sch'r Leonzo	V. Cruz, 1 Nov'r, 1864	2nd mate	do	25	do	T. B. L.
Marceline Sarvia	23	Spain	Mex. sch'r Mamlito	V. Cruz, 5 Oct'r, 1864	Seaman	do	18	do	T. B. L.
Guilermo Arivinda	24	do	do	do	do	do	18	do	T. B. L.
Jose Arazurivia	32	do	Mex brig Melina	V. Cruz, 9 Nov'r, 1864	do	do	18	do	T. B. L.
Jo Martinez	48	do	do	do	do	do	18	do	T. B. L.
Juan Grossy, his x cross	26	Austria	Mex sch'r Leonzo	V. Cruz, 10 Oct'r, 1864	do	do	18	do	T. B. L.
John Robinson	26	England	do	V. Cruz, 11 Oct'r, 1864	do	do	18	do	T. B L.
Antonio Lopez	60	Mexican	Mex. sch'r Dolfin	V. Cruz, 9 Nov'r, 1864	Cook	do	25	do	T. B. L.
Francisco Robbles	19	do	Mexican vessel	V. Cruz, 14 Nov'r, 1864	Boy	do	15	do	T. B. L.

BRITISH CONSULATE, *Vera Cruz, Nov.* 14, 1864.

Indorsed: I hereby certify that I have sanctioned the agreement Ant. Hamabar, John Johnson, Marceline Sarvia, Guilo Arivinda, Jose Arazuria, Jo. Martinez, Juan Grossy, John Robinson, Antonio Lopez, Francisco Robbles, upon the terms of the written agreement, and that I am satisfied that the said seamen understand the same, and have signed the said agreement in my presence.

I further certify that Mr. Charles Kicken goes passenger on the vessel.

Witness my hand and seal of office.

[SEAL.]

FRED. LEDWARD, *H. B. M. Consul.*

61 *Claim to vessel and cargo, filed January 30th, 1865.*

District court of the United States for the eastern district of Louisiana.

UNITED STATES
vs.
THE SCHOONER SEA WITCH, HER TACKLE, &C., and cargo.

To the honorable Edward H. Durell, judge of the district court for the southern district of Louisiana:

Pedro Jaureguiberry, of Vera Cruz, Mexico, intervening for the interest of his principals, the owners of the schooner Sea Witch, her tackle, &c., and cargo, against which vessel, &c., and cargo, Rufus Waples, esq., district attorney of the United States in the eastern district of Louisiana, has filed a libel on behalf of the United States, appears before this honorable court and claims all and singular the said schooner, &c., and cargo, for his said principals, and states that he was master of said schooner at the time of her seizure, as set forth in the libel aforesaid, duly appointed by the owners thereof, and that he is now the lawful agent for said owners at this port, and the rightful bailee of said schooner, &c., and cargo.

62 Second. The claimant admits that the said schooner Sea Witch, with the goods, wares, and merchandise laden thereon, have been brought to the port of New Orleans, and within the jurisdiction of this honorable court.

The claimant denies each and every of the allegations contained in the first, second, and fourth sections of said libel.

Wherefore claimant prays that the said schooner, &c., and cargo, may be restored to the claimant, or to his principals, the said owners, with damages, demurrage, costs, fees, and expenses.

EDW. BRIGGS, *Proctor.*

Pedro Jaureguiberry, the within-named claimant, being duly sworn, maketh this his test oath, and says that the foregoing claim is true; that the facts and averments embraced in the above claim are the truth in connection with the rights of this deponent and his said principals, the owners of said schooner and cargo; that the said schooner Sea Witch, with her tackle apparel, furniture, and cargo, did belong prior to and at the time of the seizure, and still does belong, and if restored will belong to neutral subjects of the queen of Great Britain, and to the queen of Spain.

P. JAUREGUIBERRY.

Sworn to and subscribed before me this 30th January, 1865.

K. LOEW, *D'y Clerk.*

63 *Bond for costs, filed January 30th, 1865.*

UNITED STATES OF AMERICA, *Eastern district of Louisiana, ss., to wit:*

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, P. Jaure-

guiberry, as principal, and E. Briggs, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States of America, to be levied of their goods and chattels, lands and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas, in the matter of the United States *vs.* Sch'r Sea Witch and cargo, No. 7975 of the district court of the United States for the eastern district of Louisiana, a claim has been filed on behalf of P. Jaureguiberry:

This obligation to be null and void, on condition that the said principal and surety shall abide by the final decree rendered
64 in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

P. JAUREGUIBERRY. [L. S.]
ED. BRIGGS. [L. S.]

Signed and sealed at the city of New Orleans, this 30th day of January, 1865, in the presence of—

K. LOEW,
Clerk to U. S. Commissioner in and for the eastern district of Louisiana.

Bill of interpreter, filed February 4th, 1865.

In the matter of the sch'r Sea Witch and cargo.
To Bernard Bermudez, Dr.:

For services rendered as interpreter to the United States
65 prize commissioners in the above case $10 00

New Orleans, January 17th, 1865.
Approved.

D. AUGUSTIN,
U. S. Prize Commissioner.

Order to open sealed papers, from minutes of Febr'y 17, 1865.

UNITED STATES
vs.
SCH'R SEA WITCH, &C., AND CARGO } No. 7975.

On motion of the district attorney, ordered that the sealed papers in case be opened.

Hearing and submission, from minutes of March 7th, 1865.

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

This cause was taken up by consent of parties—district at-
66 torney for libellant, Edward Briggs for claimants—when, after hearing the pleadings, evidence, and counsel, the court took time to advise, and directed the marshal to examine the cargo, and report its character without delay.

Note of evidence, filed March 7th, 1865.

UNITED STATES
vs.
SCH'R SEA WITCH, &c., } No. 7975.

The United States offered in evidence the admiralty warrant, monition, and marshal's return, and the testimony in preparatorio.

Marshal's return on order to examine cargo.

Received March 8th, 1865, and on the 11th and 13th days of the same month and year I unloaded the schooner aforesaid, and, in connexion with a competent druggist, examined the contents of
67 the packages comprising said cargo, and took an inventory of the same, a copy of which is hereto annexed as part of this return, all in obedience to the within order.

New Orleans, March 13th, 1865.

WM. W. GALLAER, *D'y U. S. Marshal.*

Annexed:

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

In compliance with an order from the hon. the U. S. district court, I have unladen the cargo of the aforesaid schooner, and after a careful examination with a competent druggist, report as follows:

Cargo.—238 bales and bags of coffee, 1 bag sweepings; 1 box, 6 cans, 5 gall's ea., castor oil; 1 box, 4 cans, 5 gall's ea., castor oil; 1 box cream of tartar; 1 box, 25 lbs., sal ammoniac; 1 box, 1 small bag coffee, and 12 bars medicinal soap; 1 box various small packages medicines; 1 box, 8 jars, ea. 6 lbs., chloroform; 10 small bottles
68 sulphate iron; 2 bottles, 20 oz. each, acetate morphine; 1 large box, apparently empty, but with two bottoms, and between the bottoms 30 bottles calomel; 1 box containing 500 packs cigarettes; 1 box, 2 cans, 100 oz. each, quinine; 1 small box Florida water; 1 box bicarbonate of soda; 1 box, 3 cans, 20 lbs. each, phosphorus; 1 box, 100 lbs., gum camphor; 1 bbl. copperas; 1 bbl. of salt; ½ pipe, two-thirds full, claret wine; 1 keg cont'g about 4 gallons rum; 1 jar, 10 pounds, potassium; 1 small bale grass twine, 9 sacks of charcoal, 4 demijohns of liquor; 6 demijohns of liquor, part full; 11 demijohns empty; 9 shot, 32 pounds each; 4 jars of olive oil.

Stores.—9 barrels of bread, 3 boxes of macaroni and vermicelli, 1 box medicines, 6 boxes containing bottles wine and sundry remnants of stores, 4 kegs lard, 1 sack salt, 1 sack of rice.

I find also a quantity of empty boxes in the hold and run of
69 the vessel, from which the contents have been removed, but I am unable to determine whether they contained stores for the use of the vessel, or a portion of the cargo.

Respectfully,

WM. W. GALLAER, *D'y U. S. Marshal.*

Order for argument in regard to cargo, from minutes of March 18th, 1865.

UNITED STATES
vs.
THE SCHOONER SEA WITCH, HER TACKLE, &C., and cargo. } No. 7975.

In this case his honor informed the proctor for the claimant that, should he desire to make an argument in regard to the drugs on board the captured vessel, and described in the marshal's report of the 14th inst., the court would hear him on Monday, 20th inst., at 11 a. m.

70 *Hearing argument on cargo, from minutes of M'ch 20, 1865.*

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

Edw. Briggs, esq., proctor for the claimant, made his argument in pursuance to the privilege extended to him by the court on the 18th inst.

Decree of restitution, from minutes of March 25, 1865.

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

For the reasons orally assigned by the court, it is ordered, adjudged, and decreed that the libel be dismissed and the vessel and cargo restored to the claimant, reasonable cause of seizure being certified in the premises.

71 *Order to U. S. commissioner, from minutes of March 25th, 1865.*

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

Ordered that R. H. Shannon, esq., U. S. commissioner, do cite before him the master and crew of the schooner Sea Witch, and take their affidavits in regard to the articles alleged to have been stolen from the captured vessel, and, upon due proof of the fact, cause the guilty persons to be arrested and brought up for trial.

Petition for appeal, filed March 28th, 1865.

To the Hon. Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The petition of Rufus Waples, U. S. attorney, in the name and in the behalf of the United States of America, libellants herein, re-

72 spectfully represent that a final sentenceand decree was entered on the day of March, 1865, in the above-entitled cause, in the said U. S. district court for the eastern district of Louisiana, in and by which said final sentence and decree it was ordered, adjudged, and decreed that the ; that said final sentence and decree is adverse to said libellant and to his manifest injury and prejudice ; that the matter in controversy exceeds in value the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said final sentence and decree, and is advised that the same is erroneous and ought to be reversed:

Wherefore, said libellant, in behalf as aforesaid, doth hereby appeal from said final sentence and decree to the next term of the Supreme Court of the United States, returnable on the first Monday of December next, and prays that this hon. court may grant him a suspensive appeal from said final sentence and decree—the same to operate as a supersedeas—and that the said final sentence and
75 decree may be reversed, and such other decree thereupon made as to the said Supreme Court shall seem just, and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent up to the said Supreme Court of the United States without delay.

(Sig.) RUFUS WAPLES, *U. S. Attorney.*

73 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R SEA WITCH AND CARGO. } No. 7975.

The United States of America to D. Jaureguiberry, claimant, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at its next term, to be holden in the city of Washington, D. C., the first Monday of December, 1865, to answer the appeal taken by the United States, libellants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said libellants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable E. H. Durell, judge, this 1st day of April in the year of our Lord 1865, and the 89th of the American independence.

E. H. DURELL, *Judge.*

Order allowing appeal, 1st April, 1865.

An appeal to operate as a supersedeas is allowed in this case, as prayed for, returnable in the Supreme Court of the United States the first Monday of December next, the appellants being by law dispensed from giving bond and security in judicial proceedings

(Sig.) E. H. DURELL, *Judge.*

74 Received April 1st, 1865, and on the 3d day of same month and year served a copy of the within citation on D. Jaureguiberry, claimant, by leaving it in the hands of Ed. Briggs, esq., proctor for claimant, and as such accepting service for said claimant.

April 3d, 1865.

M. EGAN, *D'y U. S. Marshal.*

Filed April 4th, 1865.

K. LOEW, *D'y Cl'k.*

76 *Petition of claimant joining in appeal, filed April 27th,* 1865.

U. S. dist. court, east'n dist. of La.

UNITED STATES
vs.
SCH'R SEA WITCH, HER TACKLE, &C., AND cargo.

To the honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana :

The petition of Pedro Jaureguiberry, claimant herein, on behalf of his principals, the owners both of vessel and cargo, respectfully represents that he is aggrieved by so much of the decision rendered herein on the 28th day of March last, as refused to claimant damages for the unlawful capture and detention of the said schooner Sea Witch and cargo, and gives to the captors thereof a certificate of probable cause, which damages far exceed the sum of two thousand dollars, and that he is advised that there is error to his prejudice.

Wherefore he prays that he be allowed to join in the appeal taken by the United States district attorney from said decision to the next term of the Supreme Court of the United States, on his giving bond and security conditioned as the law directs, and in such sum as the court may order.

EDW. BRIGGS, *Proctor.*

77 *Motion and order of appeal, from minutes of April 27th,* 1865.

UNITED STATES
vs.
SCH'R SEA WITCH CARGO. } No. 7975.

On motion of Edw. Briggs, of counsel for claimant, and on his presenting a petition praying an appeal to the next term of the Supreme Court of the United States from so much of the decree rendered against him on the 25th day of March last as assigns to captors a certificate of probable cause, it is ordered that the same be allowed as prayed for, returnable to the Supreme Court on the 1st Monday of December next, upon his giving bond in the sum of $250, with good and solvent security, as the law directs.

Appeal bond, filed April 27th, 1865.

UNITED STATES OF AMERICA, *Eastern district of Louisiana:*

District court of the United States, in admiralty.

78 UNITED STATES
vs.
SCHOONER SEA WITCH and CARGO. } No. 7975.—Appeal bond.

Know all men by these presents that we, P. Jaureguiberry, as principal, and Edw. Briggs, as surety, are held and firmly bound unto the United States in the sum of two hundred and fifty dollars, to be paid to the said United States, for the payment whereof, well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans, the 27th day of April, 1865.

Whereas the above-named P. Jaureguiberry has appealed to the next term of the Supreme Court of the United States from a final judgment of the district court of the United States for said district, rendered herein, granting the captors a certificate of reasonable cause of seizure in the above-entitled cause:

Now, therefore, the condition of this obligation is such, that if the above-named appellant shall prosecute his appeal to effect, and
79 answer all damages and costs, and satisfy whatever judgment may be rendered against him, if he fails to make his appeal good, then this obligation to be void; otherwise, the same shall be and remain in full force and effect.

P. JAUREGUIBERRY. [L. S.]
EDW. BRIGGS. [L. S.]

Signed, sealed, and delivered in the presence of—
W. S. BENEDICT, *D'y Clerk.*

Order of sale of vessel and cargo, issued May 20th, 1865.

District court of the United States of America for the eastern district of Louisiana, holding sessions in the city of New Orleans, May term, A. D. 1865.

NEW ORLEANS, *Saturday, the 20th day of May*, 1865.

Court met pursuant to adjournment. Present: the honorable Edward H. Durell, judge.

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

On motion of Rufus Waples, esq., U. S. att'y, and of Edw.
80 Briggs, esq., proctor for claimant—

Ordered that the schooner Sea Witch and cargo be sold by the marshal after due advertisement, on the same terms and con-

ditions on which the brig Dashing Wave and cargo were ordered to be sold; the proceeds of such sale to be deposited as the law directs, and held subject to the further orders of the court.

True copy from the minutes.

[SEAL.] W. S. BENEDICT, *D'y Clerk.*

Marshal's return, filed June 28th, 1865.

Received May 22d, 1865, and pursuant to the within order, I offered for sale at public auction, for cash, to the highest bidder, on Thursday, the 8th day of June, 1865, at the U. S. marshal's warehouse, No. 29 Front Levee, near Custom-house street, on that day at 12 o'clock m., after having first advertised the schooner Sea Witch, her tackle, apparel, and furniture and cargo, full ten days in the "Picayune," a newspaper printed and published in New Orleans, in which advertisement the day, place, hour, and terms of sale were fully set forth, as well as by the U. S. prize auctioneer, at the
81 hour and place of sale, when, after making due proclamation and having fulfilled all the previous legal requisites, the vessel and cargo were sold to the purchasers in the lots and at the prices as set forth in the proces verbal of G. A. Hall, U. S. prize auctioneer, hereto annexed; whereby the gross sales amounted to sixteen thousand one hundred and eighty-one dollars and thirty-nine cents ($16,181\frac{39}{100}$,) which I hold in obedience to the within order, subject to the further order of this hon. court.

A. BAUDOUIN, *Chief Dep'y.*

N. O., June 29th, 1865.

Proces verbal.

I, G. A. Hall, U. S. prize auctioneer, do hereby certify that under and by virtue of a writ of venditioni exponas of the hon. district court of the United States, eastern district of Louisiana, as directed to the U. S. marshal for the district aforesaid, in suit by the United States *vs.* the schooner Sea Witch, her tackle, &c., and cargo, I offered the sch'r Sea Witch, her tackle, &c., for sale at public auction, on Thursday, the 8th day of June, 1865, at 12 o'clock
82 m., at the U. S. marshal's warehouse, No. 29 Front Levee, at which said sale the same was sold for cash, at the prices, in the lots, and to the purchasers as hereinafter set forth, to wit:

	Amount.
Pittfield, sch'r Sea Witch, her tackle, &c	1,150 00
Cash, one English flag	3 00
Pittfield, 1 chart and 1 book	3 75
Avet Bro's, 74 bags coffee, 9,845 lbs., at $31\frac{3}{4}$c	3,125 79
" 4 sacks " 1,003 " " $32\frac{1}{2}$c	325 97
Lapene & Ferre, 36 bags dam'g'd do.. 8,552 lbs., at 28c.	2,394 56
H. McCall, 113 sacks coffee, 23,396 lbs., at $32\frac{1}{2}$c	7,603 70
Carson, 6 bbls. and 2 boxes coffee, 1,340 lbs., at $33\frac{1}{4}$c	445 45
Montense, 2 boxes, 10 cans castor oil, at $16 50	165 00

Finlay, 8 jars chloroform, at $9		72 00
" 10 jars sulphate of iron, at 10c		1 00
" 2 bottles acetate of morphine, at $9 50		19 00
J. B. Peres, 2 boxes quinine, 134 oz., at $2 25		301 50
Lapene & Ferre, 1 bbl. bicarb. soda		27 00
Finlay, 3 jars phosphorus, at $7 25		21 75
M. Hirsch, 1 box camphor		85 00
Brinkman, 4 jars olive oil, at $3		12 00
Montense, 1 jar potassium		28 00
M. Hirsch, 9 demijohns ass't'd liquors, part full, at $6 50		58 00
Lapene & Ferre, 20 empty demijohns, at 90c		18 00
Carson, 1 bbl. copperas		9 50
Montense, 1 box cream tartar		4 75
Martin, 1 box sal ammoniac		2 50
83 Lapene & Ferre, one lot small lot crockery		5 00
M. Hirsch, 2 boxes medicines, at $1 50		3 00
Baker, 1 box soap and coffee		3 75
Martin, 1 sack salt, part full		1 00
Carson, 1 keg rum		12 25
Martin, 1 bbl. coarse salt		2 50
Lapene & Ferre, ½ keg claret		12 00
M. Hirsch, 9 sacks charcoal, at 75c		6 75
L. Shimner, 11½ bbls. bread, at $2 25		25 87
Brinkman, 4 kegs lard, at $8		32 00
M. Hirsch, one sack rice, 205 lbs., at 10½c		21 52
Reahl, one bag twine, 135 lbs., at 18½c		24 98
M. Hirsch, 6 boxes vermicelli, at 95c		5 70
Baker, 2 boxes sherry, at $4		8 00
M. Hirsch, 11 bottles olive oil		12 00
Stevenson, 1 box claret, 9 bottles		3 00
Baker, 1 small lot mustard		75
Bowder, 1 bbl. coffee, 175 lbs., at 28c		49 00
Jackson, 1 bbl. coffee, 150 lbs., at 28c		42 00
M. Hirsch, 26 bottles calomel, at $1 25		32 50
	$16,181	39

G. A. HALL, *U. S. Prize Auct'r.*

To Hon. CUTHBERT BULLITT, *U. S. Marshal, &c.*

84 *Appraisement of vessel, filed June 9th,* 1865.

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

To the honorable district court of the United States, eastern district of Louisiana:

We, the undersigned prize appraisers to this honorable court, duly appointed and sworn, have the honor to report, that on the sixth day of June, 1865, we proceeded on board of the prize schooner Sea

Witch, for the purpose of ascertaining her value; and after a careful and thorough examination, find that she is about ten years old, built in Baltimore; her length is 89 feet 10 inches; breadth of beam, 20 feet 9 inches; depth of hold, seven feet; and $100\frac{85}{100}$ tons burthen. She has a white oak frame, yellow pine beams and bindings, a single deck, with a trunk cabin; her bottom is copper-fastened and yellow metalled. She has on board one boat, three anchors, two chains, one hawser, four water casks, one compass, and her sails are at the marshal's warehouse, and will be seen at the day of sale; and
85 we do value and appraise the said vessel at the sum of eighteen hundred dollars ($1,800) cash, and no more.

Given under our hands this 6th day of June, 1865.

H. G. HEARTT,
RICH'D SWAIN,
U. S. Prize Appraisers.

Appraisement of cargo, filed June 9th, 1865.

UNITED STATES
vs. } No. 7975.
SCH'R SEA WITCH and CARGO.

We, the undersigned prize appraisers of this honorable court, duly appointed and sworn, have the honor to report that we have this day carefully examined the cargo of the prize schooner Sea Witch, and are of opinion that the actual market value or wholesale prices of the said merchandise are this day, and we do therefore appraise the same as follows:

	238 bags of coffee, at 30c. per pound.	
86	1 box, 6 cans each, castor oil, at $20 ea.	120 00
	1 " 4 " " " " " 15 "	60 00
1 box, 8 jars, 6 lbs. each, chloroform " 20 "		160 00
10 small bottles sulphate of iron; lot		10 00
1 box, 200 oz. quinine, at $2 50 per oz.		500 00
1 " bicarbonate of soda		5 00
1 " 3 cans each, 20 lbs. phosphorus, at $3 per lb		180 00
1 " 100 pounds camphor, at 60c		60 00
4 jars olive oil, at $2		8 00
1 " potassium, 10 lbs.; lot		2 50
10 demijohns liquor, at $12 ea.		120 00
1 lot stores, consisting of bread, medicines, boxes, wine, 1 sack salt, etc.; lot		50 00
1 flag		5 00

H. G. HEARTT,
RICH'D SWAIN,
U. S. Prize Appraisers.

Appraisers' bill.

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

To appraisers' office, Dr.

To appraisement, &c., &c., vessel and cargo, $16,181 39, at 1½ per cent. $242 76

87 *Bill of G. A. Hall, U. S. prize auct'r, filed June 19th, 1865.*

The United States, suit No. 7975, to G. A. Hall, U. S. prize auctioneer, Dr.

To commissions on sale vessel	$25 00
To commissions on sale cargo, $10,000, at 10 per cent.	100 00
$5,031 ¾ at 4-10 per cent.	20 12
Advertising, Times, $6 00; Delta, $6 00; Picayune, $9 00 ..	21 00
	$166 12

Report of U. S. Comm'r Shannon, filed July 22nd, 1865.

To the honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

I, the undersigned, a United States commissioner, to whom was referred for action the subject specified in the order hereto annexed in the case of the Uniied States *vs.* the schooner Sea Witch and cargo, respectfully reports, that in accordance with the said
88 order, I did take the affidavits of the captain of the schooner Sea Witch, and of one Fabians Martinez, one of the hands on board said schooner, both of which are hereto annexed, marked Exhibits B and C; that at the time of taking said affidavits, and for a long time thereafter, the steamer Metacomet was in and near the port of Mobile, connected with the blockading squadron of the United States in aiding the army of the United States in the reduction of the city of Mobile; that on or about the 4th day of May, 1865, I obtained from the military authorities of the department of the Gulf, passes and permission to proceed to Mobile for himself and the witness Martinez; that on or about the 5th day of May, A. D. 1865, I went to Mobile with the witness aforesaid, where the Metacomet then was, for the purpose of indentifying and bringing over to the city of New Orleans the persons alleged to have committed the acts specified in said order; that upon arriving in Mobile, I made immediate application to Admiral Thatcher, then commanding the naval squadron or fleet at Mobile, to be allowed to proceed on board the steamer Metacomet for the purpose above stated; that said
89 Admiral Thatcher, upon said application, despatched a message to Captain or Commander Pierce Crosby, of the said steamer, who, in obedience to said message, reported to me; that I did com-

municate to said commander the facts and circumstances connected with my mission, and showed him my authority and the said order, whereupon the said commander immediately returned on board of the said steamer, and on or about the 8th day of May, A. D. 1865, forwarded to me a letter, which is hereunto annexed, marked D, by which it appeared that all the persons who were supposed to be the guilty ones referred to in the order had some time before left the said steamer, had gone to parts without my jurisdiction and control, and could not be arrested in obedience to the said order; on learning which I did not proceed any further upon said order.

All of which is respectfully submitted.

ROBERT H. SHANNON,
United States Commissioner.

Dated at New Orleans, July 20th, A. D. 1865.

90 *Exhibit B, (annexed.)*

UNITED STATES OF AMERICA,
Eastern district of Louisiana, city of New Orleans, ss:

Be it known, that on this fourteenth day of April, in the year of our Lord 1865, and the 89th year of the independence of the United States of America, personally came and appeared before me, Robert H. Shannon, a United States commissioner, duly commissioned and sworn, in and for the eastern district of Louisiana, P. Jaureguiberry, who, being duly sworn, says that he was the captain of the Sea Witch, captured by the gunboat Watacomet, which brought deponent to New Orleans, and arrived on Saturday, the 21st day of January, 1865, where she was moored alongside the levee of said city with other prizes; that after the arrival of said vessel, and after it was moored as aforesaid, the hatches were covered but unsealed through that day, Saturday, and through the day and night of Sunday following: that deponent remained on board of said
91 Sea Witch all Saturday night and Sunday *and Sunday* night, sleeping in the cabin with the officer in charge of the prize, James Brown, and left the schooner on the following Monday morning. On going on the deck of said vessel on Monday morning, deponent found the after hatch open; deponent then went into the hold, and found that during the night of Sunday two rows or tiers of bales of coffee, which were stowed forward of the mainmast, had been taken out of the hold; the two tiers consisted of ten bales. Deponent ascended to the deck of said vessel, and tracked the grains of coffee which had fallen from the bales from the after hatch, where they had been stowed, up from said hold to the deck, and across the Sea Witch, and across the decks of two schooners lying alongside the Sea Witch in shore, where the deponent supposes the said bales were lowered down the side of one of said schooners into skiffs, as all trace of the coffee then disappeared, and none of the coffee was found on the wharf or levee, which deponent carefully examined on landing. Deponent further says that in addition to said coffee the entire con-

tents of a case of drugs, which had been opened by the board-
92 ing officer of the Seminole on his visit to the Sea Witch prior to her capture by the Metacomet, had entirely disappeared with the said coffee. He further says that on discovering the disappearance of the said coffee and drugs, he notified said James Brown of the circumstance of said loss, who immediately accompanied deponent to the said hold, where deponent pointed out the vacant place from which the bales had been taken, and informed him of the details of said loss, and deponent's opinion as to the manner of its disappearance. Deponent says that when he discovered the said loss in the morning of the 23d of January, he was surprised and astonished that such a thing could have been done, deponent having slept quietly in the cabin of said vessel as aforesaid during the said Sunday night, as did also James Brown, who expressed with deponent his astonishment at the loss and the manner in which it occurred.

P. JAUREGUIBERRY.

Sworn to and subscribed before me this 14th day of April, 1865.

R. H. SHANNON, *U. S. Commissioner.*

93 *Exhibit C, (annexed.)*

UNITED STATES OF AMERICA,
Eastern district of Louisiana, city of New Orleans, ss :

Be it known, that on this fourteenth day of April, in the year of our Lord one thousand eight hundred and sixty-five, and the 89th year of the American independence, personally came and appeared before me, Robert H. Shannon, a United States commissioner in and for the eastern district of Louisiana, duly commissioned and sworn, Fabians Martinez, who, being duly sworn, says that he is between fourteen and fifteen years of age; that he resides in Tuspan, in Mexico; that he was a cabin boy on board of the schooner Sea Witch. Deponent arrived in the city of New Orleans when said schooner was brought in by the gunboat Metacomet, to wit, on the 21st day of January, and was on board at the time she was moored to the levee of said city, and remained on board said schooner during the Saturday night, the 21st January, Sunday, the 22d, and Sunday night, and until Mon-
94 day, the 23rd, the whole time. Deponent saw the hatches of said schooner closed, but not sealed, as stated in the affidavit of Captain Jaureguiberry. Deponent in the night of Saturday—the night of the day when the said schooner was moored—saw two sailors belonging to the prize crew of the Sea Witch carrying a bag of coffee, which came and was brought from the after hatch of said schooner by said sailors; that said sailors delivered said bag of coffee on the deck of the schooner lying alongside the Sea Witch to an officer of said prize crew, who was there to receive the same. The name of said officer was Goodwin. Deponent does not know the christian name of said Goodwin; said Goodwin was second officer in command of the prize crew from the gunboat Metacomet, placed in charge of the Sea Witch. Deponent said the said sack of coffee was lowered by said

sailors and said officer, and put in the cabin of the schooner lying alongside the Sea Witch. Deponent does not know the names of either of the sailors who took the said coffee; the value of said coffee is about one hundred dollars per bale.

FABIANS MARTINEZ.

Sworn to and subscribed to before me this 14th April, 1865.

R. H. SHANNON, *U. S. Commissioner.*

95 *Exhibit D, (annexed.)*

U. S. ST'R METACOMET;
Mobile Bay, May 8th, 1865.

SIR: The following named men from this ship were transferred as prize crew to the sch'r Sea Witch on the 31st day of December, 1864, in charge of Acting Ensign James Brown and A. M. Mate J. K. Goodwin, Charles Baker, Mr. Sumner; Patrick Murphy, b. mate; Michael McGrath, ord. seaman; Henry Jacobus, Osceola Smith, John F. Miller, J. W. Brown, Patrick Bennett, George Kissilling, and J. H. Ettenger, landsmen. As their term of service had expired on their arrival at New Orleans, they were transferred to the U. S. S. Portsmouth for passage north, and as I have since received a receipted copy of their accounts, signed by A. A. Paym'r J. H. Jenkins, mailed from the U. S. S. Seminole, at the navy yard, New York; they were probably discharged by him on their arrival there. The officers are also away. Act'g Ensign James Brown having been granted a leave for sixty days, left here for the north on 7th inst. A. M. Mate J. K. Goodwin was transferred to the U. S. naval hospital at Pensacola navy yard on the 18th ultimo.

96 Very respectfully your ob't servant,

H. M. HARRIMAN, *A. A. Paymaster.*

To Commander PIERCE CROSBY,
Com'd'g U. S. S. Metacomet.

U. S. ST'R METACOMET, *May 9th,* 1865.

SIR: This is all the information I can furnish you in regard to the whereabouts of prize crew of the Sea Witch.

Respectfully yours,

PIERCE CROSBY, *Com'd'r.*

To ROBERT H. SHANNON, Esq.

U. S. marshal's bill, filed August 3rd, 1865.

UNITED STATES MARSHAL'S OFFICE,
New Orleans, June 21st, 1865.

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

97 Jan'y 23. Ad. warr't, libel, and order, 6 00; posting, 1 00; Eng. copy, 1 00.... $8 00

Jan'y 23. Going on board to seize and inventory..... 5 00

"	"	Time and expenses of d'y to go on U. S. st'r Portsmouth	$5 00
"	"	Paid drayage and expenses of prisoners' effects from ship	5 00
		Paid for bringing instruments to office	2 50
"	"	Attendance prize com'rs' court, $4 00; order prize com'r to discharge prisoners, $2 00	6 00
"	"	Monition published in True Delta	18 00
"	"	Bill of quarantine fees	7 50
"	26.	Paid for labor and drayage on sails to warehouse	10 75
"	"	Time and attendance of d'y to unbend and remove sails	5 00
"	"	Bill of harbor-master, and master and wardens	8 00
March	8.	Order for marshal to examine cargo	2 00
"	13.	Time of d'y to examine cargo, $10; paid ex-	
"	"	penses for do., $30 50	40 50
"	"	Paid labor on spare sails, $1 50; order to cite	
"	"	capt. and crew, $2	3 50
April	1.	Citation of appeal to Supreme Court	2 00
"	"	Bill of discharging cargo, $78 60; bill of hauling cargo, $85	163 60
May	22.	Order to sell, $2; Eng. copy for pub'n, 50 c	2 50
"	"	Notice of sale in Times, True Delta, and Picayune	54 00
"	28.	Notified two prize com'rs and prize auct'r	3 00
June	12.	Order to keeper to deliver vessel	1 00
"	"	Bill for printing and posting catalogues	16 00
"	"	Preparing for sale, attendance, and delivery	15 00
"	"	Com'ns on sale vessel, $2 30; com'ns on sale cargo, $75 15	77 45
"	"	Com'ns on disb'sem'ts, $32 50; 3 proc., 90 c.; return on order of sale, $1	34 40
"	"	Paid for labor on cargo, &c., before sale, at sale, and to deliver	155 75
"	"	Storage on sails, 6 mo's, $37 50; on cargo, 2 mo's, $250	287 50
"	"	Rec'd'g appr'is't, $1; recording proces verbal, $1	2 00
"	"	Paid marshal's custody of vessel to date, 141 days, at $2 50	352 50
98	"	Insurance on $10,000, 1 mo., at $\frac{3}{16}$ per cent.	75 00
	"	Services of extra clerk preparing for sale and to deliver	150 00
			$1,518 45

Cuthbert Bullitt, U. S. marshal, being duly sworn, doth depose and say that the above bill is correct and true; that the charges therein were actually necessary, and incurred for the purposes set forth.

CUTHBERT BULLITT, *U. S. Marshal.*

Sworn to and subscribed before me this 14th July, 1865.

W. S. BENEDICT, *D'y Clerk.*

Approved. E. H. DURELL, *Judge.*

99 *Taxation of costs, from minutes of Aug. 3d, 1865.*

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

Ordered and decreed that the costs, charges, and disbursements in this case be taxed, allowed, and paid as follows, viz:

District attorney, 10 per cent	$161 80
Clerk	65 85
" add'l	25 00
Marshal Bullitt	1,518 45
Prize commissioners, 1½ per cent	242 71
Appraisers, 1 per cent	161 80
Auctioneer	166 12
	$2,341 73

100 *Agreement relative to appeal, filed August 11th, 1865.*

UNITED STATES
vs.
SCH'R SEA WITCH and CARGO. } No. 7975.

It is hereby agreed that the log-book of the schooner Sea Witch, as well as the translation of the same, be sent up to the Supreme Court on the appeal in original.

New Orleans, August 11th, 1865.

RUFUS WAPLES, *U. S. Att'y.*
EDWARD BRIGGS, *for Claimants.*

101 District court of the United States, east dist. of Louisiana.

I certify that the foregoing 100 pages do contain and form a correct and complete transcript of all the proceedings had, documents filed, and evidence adduced at the trial of the cause of the United States *vs.* Schooner Sea Witch and cargo, No. 7975 of the docket, with the exception of the log-book, and the translation of the same, which, under the agreement on file, are sent up in original to the appellate court with this transcript.

In testimony whereof, I hereto set my hand and the seal of our court, at New Orleans, this 21st day of August, A. D. 1865, and the 90th year of the American independence.

[L. S.] K. LOEW, *D'y Cl'k.*

Filed November 27, 1865.

Supreme Court of the United States.

THE UNITED STATES

vs.

THE SCHOONER SEA WITCH AND CARGO.

No. 206.

WILLIAM MARVIN, *Advocate.*

PRINTED BY
PRINTER.

Supreme Court of the United States.

THE UNITED STATES
vs.
The Schooner SEA WITCH and Cargo.
No. 206. *Prize.*

This vessel and cargo were captured on the 31st day of December, 1864, about 100 miles from the coast of Texas, in latitude 27° 7′ north, and in longitude 93° 40′ west, by the United States steamer "Metacomet," James E. Jewett, Commander.

Ensign Brown, prize master, in his affidavit, page 4, says she was captured in latitude 27° 16′ N., longitude 93° 59′ W., about 76 miles S. S. E. from Galveston. The captain of the schooner says she was captured in 27° 7′ N., 93° 40′ W., 140 miles from shore. The mate says 100 miles from the shore; the second mate 140 miles.

The vessel sailed from Vera Cruz on the 16th of November, under the command of Pierre Jaureguiberry, laden with 250 bags of coffee and nine cases and two barrels of drugs or medicines, and was bound on a voyage to New-Orleans. Encountering heavy weather, it appears that the master had abandoned the voyage, and was in the act, or about entering upon the act, of returning to Vera Cruz when the vessel was captured.

The vessel and cargo were carried to New-Orleans for adjudication. The master intervened, and claimed the vessel and cargo for their respective owners, and prayed a restitution of the same, with damages, demurrage, costs, fees and expenses. The affidavit to his claim states "that the said

schooner 'Sea Witch,' with her tackle, apparel, furniture and cargo, did belong, prior to and at the time of the seizure, and still does belong to, and if restored, will belong to neutral subjects of the Queen of Great Britain and of the Queen of Spain."

See claim and affidavit, page 24.

The court decreed a restitution of the ship and cargo to the claimant, and refused him damages, certifying a reasonable cause of seizure. (Page 27.) From this decree the District Attorney appealed, and the claimant appealed from so much of the decree as refused him costs and damages for the capture and detention, and as certified a reasonable cause of seizure. (Page 29.) Both appeals are now before the court in the one transcript of the record.

Point I.

There is no just ground in the case upon which to base a decree of condemnation, and the claimant is entitled to a decree of restitution; and there is no just ground in the case for withholding a decree for damages, costs and expenses, to be allowed to the claimant. For,

1st. The vessel and cargo are both shown to be neutral owned.

The Vessel.—As to the vessel, it appears from a report of appraisers appointed by the court, (pages 32, 33,) that it was originally built in Baltimore, was about ten years old, and was of the burthen of about 100 tons. The vessel was probably sold to some Mexican merchant soon after being built; for the captain testifies that he has lived in Mexico since 1835; and, in answer to the 10th interrogatory, (page 5,) he says, "I have known the vessel nearly ten years. I first saw her in Campeachy, Mexico. She is American built. I have known her by the name of Pizarro. She was called this name when she came from Baltimore. The French took her

about two years ago and armed her with a gun. About three months ago the French Consul at Vera Cruz sold her at public auction, and Mr. Fell bought her, and he named her the 'Sea Witch.' Mr. Fell owns the vessel. Mr. Somohano, a Spaniard, and a merchant at Vera Cruz, loaded the vessel and put me in as captain." Antonio Amaba, the mate of the vessel, in answer to the 10th interrogatory, (page 10,) says: "He has known the schooner about seven years. She was formerly called the Pizarro. She belongs to Mexico. She was captured by the French, and then sold." The vessel sailed under a provisional certificate of British registry, granted by the British Consul at Vera Cruz, dated the 12th day of October, 1864, in which T. or F. W. Fell, of London, England, is stated to be the owners. (See certificate of registry, pages 13, 14.) The captain, in his deposition, states that Mr. Somohano, a Spaniard, and merchant at Vera Cruz, loaded the vessel and put him in as captain, and the letter of Messrs. A. Somohano & Co., in the Spanish language, addressed to Sr. D. J. Farrington, New-Orleans, under date of the 12th November, and found on page 21 of the record, says: "We have arranged to consign to you our English schooner 'Sea Witch,' Captain Janreguiberry, so that you may cause her to receive, in that port, a general repairing, which she needs, and which we wish to have solidly done." Now the appointment of the captain by Mr. Somohano, taken in connection with this letter, seems to imply that Messrs. Somohano & Co. have some equitable title to or interest in the vessel, while the legal title seems, from the register and other testimony, to be in Mr. Fell. However this may be, the testimony, taken together, excludes all idea of there being any enemy ownership or interest in the vessel. The vessel was neutral owned, whether it belonged to Mr. Fell or to Messrs. Somohano & Co., and the master claims for whoever may be owner.

2d. The Cargo.—As to the cargo, this belonged to Messrs. A. Somohano & Co., of Vera Cruz. The bill of lading (Document J., page 18) shows that it was shipped by them and consigned to D. F. Farrington, of New-Orleans. The invoices (Document G., page 18, and Document H., page 20) show that it was shipped on their account. Document H. is a de-

claration made under oath by A. Somohano & Co., before the American Consul, at Vera Cruz, wherein the affiant states, that he is the owner of the goods, wares and merchandise mentioned in the annexed invoice, and that it is intended to make entry thereof at the port of New-Orleans. The invoice is annexed, and the customary certificate of the United States Consul is appended. The captain, in answer to the 10th interrogatory, says, Mr. Somohano, a merchant at Vera Cruz, loaded the vessel. In answer to the 16th, page 6, he says: "The owner of the cargo was Mr. Somohano, of Vera Cruz. I believe if the vessel had reached New-Orleans the cargo would have belonged to Mr. Somohano."

3d. The Voyage.—The voyage itself was lawful. The port of New-Orleans was open to trade under license. This voyage was duly licensed. (See the license, proclamation of the President and regulations of the Secretary of the Treasury, pages 15, 16, 17.)

There is no evidence in the case of a purpose to break blockade. The agreement with the crew, (page 22,) the bill of lading, invoices and the testimony of all the witnesses, call for New-Orleans as the port of destination. The object of the voyage was two-fold: to place the vessel in New-Orleans for the purpose of repairing her there, and also to make a profit on the shipment. These objects are disclosed in the letter of A. Somohano & Co., addressed to Mr. Farrington, the consignee, at New-Orleans, dated at Vera Cruz the 12th November, 1864. In this letter Messrs. Somohano & Co. say: "In order to cover the expenses of the repairs and to purchase some havena (oats?) and butter, we send you 250 bags of coffee and eleven boxes of medicines, which we bought here at public auction, very cheap, for which we hope you may find us a good sale, which we cannot get here, since the druggists, who saw us buy them, are unwilling to allow us a fair price." That the vessel needed repairs is evident from the fact, that soon after sailing she sprung a leak, which compelled the master to put into Tuspan for the purpose of repairing her. Here the vessel was unloaded and caulked. The administrator of the Custom-House, at Tuspan, certifies to the fact that the vessel put into that port to repair damages. (See his certificate, Document

L., page 17, and also the letter of Diego del Noval, stating the same fact, page 21.) After sailing from Tuspan, the captain deposes (interrogatory 11) that he encountered bad weather, so that he could not live on the sea, and he turned back for Vera Cruz. And again, (interrogatory 36, page 7,) he says, "After repairing at Tuspan, the schooner was at sea several days, when I got heavy seas and heavy north winds, and I found I could not continue my voyage, so I turned back to Vera Cruz, and was captured on my way to Vera Cruz, as already stated." The other witnesses, three in number, say nothing about the fact of the vessel having turned back towards Vera Cruz before the capture. It is probable that the captain had only formed the purpose in his own mind, during the existing heavy weather, to return back, and had not yet entered upon its execution to such an extent and in such manner as that the crew had as yet become aware of any change in the voyage, for they all agree in saying, that at the time of the capture the weather was heavy—the vessel having no sail up or only a jib. Johnson, second mate, (interrogatory 36, page 9,) says: "We were going right before the wind and sea, a heavy gale blowing at the time of the capture." Amaba, the mate, says: "We were lying to, with no sail up except the jib. We were under heavy weather." Arazuria (interrogatory 36, page 13) says: "We were running with rough weather with the jib alone up when we were captured." Johnson (interrogatory 3, page 8) says the vessel was captured about 140 miles from land. Amaba, the mate, (interrogatory 3, page 9,) says she was captured about 100 miles from the land. The log-book fully confirms these statements of the captain and crew.

By the letter of the 12th November, dated four days before the vessel sailed from Vera Cruz, the vessel and said cargo were consigned to Mr. F. Farrington, at New-Orleans. But the vessel having put into Tuspan, where she was detained twenty-six days undergoing repairs, it seems that Messrs. Somohano & Co., during this time, instructed their agent at Tuspan, Diego del Noval, to enclose this letter in an envelop, addressed to Messrs. Cramer & Co., at New-Orleans, to be opened by them, and in the event that Mr. Farrington should be absent from New-Orleans, to instruct them to receive the

consignment, and fulfil the orders contained in the letter enclosed. Hence the letter of Diego del Noval to Cramer & Co., found at page 21 of the record, and hence the answer of the captain to the 28th interrogatory, page 6, where he says, the goods were consigned to Mr. Farino, (Farrington,) or to Messrs. Cramer & Co. The original consignment was to Farrington, but changed to Messrs. Cramer & Co., in the event that Farrington should be absent.

Now, we see nothing in the circumstances attending this voyage, or in the papers or letters, or depositions in the case, from which any purpose to break blockade, by running into any port or place on the coast of Texas or Louisiana, may be reasonably inferred.

We say, then, that the vessel and cargo are sufficiently proved to be neutral owned; that there was no purpose to break blockade; the voyage itself was lawful; and that no ground exists in the case for a condemnation of ship or cargo. The vessel and cargo ought to be restored.

Point II.

No reasonable ground for capture existed in the case, and the claimant is entitled to recover damages for the unjust capture and detention, and to be relieved from the payment of costs and expenses, and to be allowed his own costs and expenses. While the vessel was lying-to or running under a jib in a gale of wind, one hundred miles from the land, with regular documents and papers on board, she was captured. We say the circumstances did not justify the capture. Besides, there is a manifest propriety in allowing damages in this case, for it appears from the affidavits of the captain and cabin boy, (pages 35, 36,) that ten bags of the coffee on board were embezzled and stolen by the prize crew, in New-Orleans, and it is just that the claimant should be reimbursed their value. (See the action of the court and prize commissioner in regard to the stolen coffee, pages 27, 34 and 37.)

WM. MARVIN,
Advocate.

The vessel must be taken
in delicto 3 C Rob 387 167